

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its South San Francisco
District.

Application 03-10-017
(Filed October 1, 2003)

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its Stockton District.

Application 03-10-018
(Filed October 1, 2003)

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its Mid-Peninsula
District.

Application 03-10-019
(Filed October 1, 2003)

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its Salinas District.

Application 03-10-020
(Filed October 1, 2003)

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its Bakersfield District.

Application 03-10-021
(Filed October 1, 2003)

Application of California Water Service Company
(U 60 W) for an Order Authorizing it to Increase
Rates for Water Service in its Salinas District
(excluding the service areas of the County
Meadows Mutual Water System and the Indian
Springs Mutual Water System).

Application 03-10-031
(Filed October 1, 2003)

ADMINISTRATIVE LAW JUDGE RULING ON CALIFORNIA WATER SERVICE COMPANY'S MOTION FOR INTERIM RATE INCREASE

Background

California Water Service Company (CWS), as part of its pending, consolidated general rate case (GRC) for two districts, has moved for an interim rate increase under the provisions of Pub. Util. Code § 455.2. This section, enacted by the Legislature in 2002, provides for an inflation-indexed interim rate increase in the event a water GRC is not completed in the time contemplated by the Commission's water rate case plan.¹

CWS originally set forth its request for an interim rate increase in its applications for ratemaking in its South San Francisco, Stockton, Mid-Peninsula, Salinas, and Bakersfield districts. On February 2, 2004, CWS specifically moved for an interim increase request to be effective on July 1, 2004. The requested increase would apply only to the South San Francisco and Bakersfield districts since the applications for the Stockton, Mid-Peninsula, and Salinas districts will be dismissed. The Office of Ratepayer Advocates (ORA), the sole protestant to the applications, has indicated that it will not file any opposition to the motion.

This Administrative Law Judge (ALJ) Ruling authorizes CWS to file a tariff implementing an inflation-indexed interim rate increase effective July 1, 2004, for the South San Francisco and Bakersfield districts.²

¹ *In re* Schedule for Processing Rate Case Applications by Water Utilities, Decision (D.) 90-08-045, 37 CPUC 2d 175 (1990).

² On two recent occasions, the Commission has issued two interim decisions resolving the basic questions raised by implementation of Pub. Util. Code § 455.2, enacted in 2002; *see In re* California Water Service, D.03-10-072 (Oct. 30, 2003) and *In re* San Jose Water Co., D.03-12-007 (Dec. 4, 2003). With these basic issues resolved, a practice is evolving

Footnote continued on next page

Discussion

On July 31, 2003, CWS, a Class A water utility with over 10,000 service connections, submitted its notices of intent to file GRC applications for the five water districts named in this proceeding. Six applications for five districts³ were actually filed on October 1, 2003, and thereafter protested by ORA. The Commission's water rate case plan indicates that these districts are "July" or "midyear" filers. Under the rate case plan, CWS's applications should have been filed during July 2003 and its notices of intent filed at least 40 days in advance of the filing of the applications. CWS's motion does not explain why the notices of intent or applications were filed late.

For GRC applications properly filed in July, "the calendar year following the year of filing is the first test year," ⁴ Pub. Util. Code § 455.2(a) directs the Commission to issue its final decision on a water corporation's GRC application so that the decision becomes effective on the first day of the first test year, here January 1, 2004. Section 455.2(b) further instructs that if the Commission's decision is not effective on that date, the water corporation "may file a tariff implementing interim rates that may be increased by an amount equal to the rate of inflation as compared to existing rates." However, as the section further provides, the presiding officer or Commission may set a different effective rate

for these interim rate requests to be raised, as here, by motion and resolved by ALJ Ruling (approving advice letter and tariff processing of the request) unless the request raises new or unusual issues that should be decided by the Commission.

³ Two applications were submitted for the Salinas District due to unresolved boundary issues.

⁴ D.90-08-045, 37 CPUC 2d. at 188.

for interim or final rates if the delay in timely completion of the proceeding is due to the actions of the water company.

In this proceeding, CWS filed its notices and applications outside the requirements of the water rate case plan; and the company has offered no explanation why this occurred. Thus, the delay is attributable to the company's action or inaction. Under these circumstances, the presiding officer may establish a delayed date for implementing an interim rate increase. Indeed, the company itself requests a July 1, 2004, effective date—six months beyond the date that would have been available under section 455.2(a) had the water rate case plan requirements been satisfied.

Findings of Fact

1. CWS, having more than 10,000 service connections, is subject to the Commission's 1990 rate case plan for water corporations and is a July filer under that rate case plan.

2. CWS submitted its notices of intent to file ratemaking applications on July 31, 2003, and its applications on October 1, 2003. Under the rate case plan, the applications should have been filed by July 31, 2003, preceded by at least 40 days by the filing of the notices of intent to file the applications.

3. CWS has provided no reason to explain its failure to file its notices of intent and applications pursuant to the time requirements set forth in the Commission's water rate case plan.

4. The delay in filing CWS' applications prevents the Commission's decision from becoming effective on the first day of the first test year, January 1, 2004.

5. The Scoping Memo in this proceeding contemplates that the Commission will likely not reach its final decision on the applications until August 19, 2004.

6. In its motion, CWS requests that the effective date for the interim rate increase be July 1, 2004.

Conclusions of Law

1. Under Pub. Util. Code § 455.2, CWS is authorized to file a tariff with the Commission implementing interim rates in an amount equal to the rate of inflation as compared to existing rates.

2. The interim rates may be applied to the South San Francisco and Bakersfield districts, both involved in this proceeding.

3. The late filing of CWS' ratemaking applications was due to the action of the water corporation. Under these circumstances and as authorized by Pub. Util. Code § 455.2(b), the presiding officer may set a different effective date for the interim rate increase.

4. Pursuant to Pub. Util. Code § 455.2(b), interim rates should be authorized as of July 1, 2004.

IT IS RULED that:

1. California Water Service Company (CWS) is entitled to file, by advice letter, a tariff with the Commission implementing interim rates in its South San Francisco and Bakersfield districts as of July 1, 2004, and continuing until the Commission issues a final decision on CWS' applications or orders otherwise.

2. The interim increase in rates will be no greater than an amount equal to the rate of inflation as compared to existing rates for each of the districts. The rate of inflation will be calculated using the most recent Consumer Price Index maintained by the U.S. Department of Labor.

3. The interim rates will remain subject to refund and will be adjusted upward or downward back to the effective date of the interim rate increase, consistent with the final rates adopted by the Commission.

4. Upon tariff approval, CWS shall notify its customers in writing of the interim rate increase. Notice will be provided on or before the effective date of

the interim rate increase and may be sent as a bill insert. The notice will reference this Administrative Law Judge Ruling and explicitly say that the interim rates are subject to refund and will be adjusted upward or downward back to the interim rate effective date, consistent with the final rates adopted by the Commission. CWS shall prepare a proposed notice to ratepayers, but the notice must not be sent until the Commission's Public Advisor approves it in writing.

5. This proceeding remains open for resolution of the pending applications.

Dated March 2, 2004, at San Francisco, California.

/s/ JOHN E. THORSON

John E. Thorson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling On California Water Service Company's Motion For Interim Rate Increase on all parties of record in this proceeding or their attorneys of record.

Dated March 2, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

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